RECEIVED
CENTRAL FAX CENTER

NOV 0 2 2006

LAW DEPARTMENT
1301 EAST ALGONQUIN ROAD, SH5
SCHAUMBURG, ILLINOIS 60196 U.S.A.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	Remboski, et al.		
US SERIAL NO.:	09/944,892	GROUP ART UNIT:	2667
FILED:	August 31, 2001	DOCKET NO.:	IA00002
TITLED:	VEHICLE ACTIVE NETWORK WITH RESERVED PORTIONS		

TRANSMITTAL COVER SHEET &

CERTIFICATE OF FACSIMILE TRANSMISSION

PLEASE DELIVER TO EXAMINER Afsar M. Qureshi

COMMISSIONER OF PATENTS
AND TRADEMARKS
ALEXANDRIA, VA

VIA FAX NUMBER 571-273-8300

I HEREBY CERTIFY THAT THE PAPERS IDENTIFIED BELOW ARE BEING FACSIMILE TRANSMITTED WITH THIS COVER SHEET TO THE U.S. PATENT AND TRADEMARK OFFICE ON THE DATE SHOWN BELOW.

Tammy Olson — 11/2/06

Tammy Olson — November 2, 2006

NUMBER OF SHEETS (INCLUDING THIS SHEET): 6

IDENTIFICATION OF TRANSMITTED PAPERS:

1 PAGE FAX TRANSMITTAL SHEET
1 PAGE TRANSMITTAL FORM
4 PAGE REPLY BRIEF

RETURN FACSIMILE NUMBER (847) 862-8308
IF THERE ARE PROBLEMS WITH THIS TRANSMISSION, PLEASE CALL TELEPHONE NUMBER (847) 862-0270 or (847) 862-0023.

RECEIVED
CENTRAL FAX CENTER
NOV 02 2006

TRANSMITTAL FORM (to be used for all correspondence after initial filing)		
	Application Number	09/944,892
	Filing Date	August 31, 2001
	First Named Inventor	Remboski, et al.
	Group Art Unit	2616
	Examiner Name	Afsar M. Qureshi
Total Number of Pages in this Submission	Attorney Docket Number	IA00002

ENCLOSURES (check all that apply)

☐ Fee Transmittal Form	☐ Drawing(s)	☐ After Allowance Communication to a Technology Center (TC)
☐ Fee Attached	☐ Licensing-Related papers	☐ Appeal Communication to Board of Appeals and Interferences
☐ Amendment	☐ Petition	☒ Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
☐ After Final	☐ Petition to Convert to a Provisional Application	☐ Proprietary Information
☐ Affidavits/Declaration(s)	☐ Power of Attorney, Revocation, Change of Correspondence Address	☐ Status Letter with appropriate copies
☐ Extension of Time Request	☐ Terminal Disclaimer	☐ Other Enclosure(s) (please identify below)
☐ Express Abandonment Request	☐ Request for Refund	
☐ Information Disclosure Statement	☐ CD, Number of CDs ____	
☐ Certified Copy of Priority Documents		
☐ Response to Missing Parts/ Incomplete Application	Remarks	
☐ Response to Missing Parts Under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual	Gary J. Cunningham	Registration No.	33,488
Signature	Gary J. Cunningham		
Date	November 2, 2006		

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313 on the date listed below:

Typed or printed name	Tammy Olson		
Signature	Tammy Olson	Date	November 2, 2006

RECEIVED
CENTRAL FAX CENTER

NOV 02 2006

I hereby certify that this correspondence is being facsimile transmitted or deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: MS Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: November 2, 2006 Signature: Tammy Olds

Docket No.: IA00002
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Donald J. Remboski et al.

Application No.: 09/944,892 Confirmation No.: 4080

Filed: August 31, 2001 Art Unit: 2667

For: Vehicle Active Network With Reserved Portions Examiner: Afsar M. Qureshi

REPLY BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Please consider Appellants' reply brief as follows.

RECEIVED
CENTRAL FAX CENTER
NOV 02 2006

Application No.: 09/944,892 Docket No.: IA00002

At issue in this matter is the Examiner's erroneous §103(a) rejections over Matsuda in view of Bertin. More specifically, at issue is whether either Matsuda or Bertin, or the combination would teach or suggest use of an "active network" as claimed in claims 1, 11, and 18.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See, e.g. MPEP § 2143.

At a minimum, Matsuda in view of Bertin does not teach or suggest an active network that is a network including nodes capable of performing custom operations on the messages that pass through the nodes; does not require a central server or computing resource; are aware of the contents of the messages transported and can participate in the processing and modification of the message while they travel through the network. As the Board is aware, during examination, the USPTO must give claims their broadest reasonable interpretation. This means that the words of the claim *must be given their plain meaning* unless applicant has provided a clear definition in the specification. See, MPEP §2111.01 and *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989), *Chef America, Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, 1372, 69 USPQ2d 1857 (Fed. Cir. 2004).

Here, the Appellants provided actual evidence (in the form of an affidavit and reference material) to support that the plain meaning of the term "active networks" is a network including nodes capable of performing custom operations on the messages that pass through the nodes; does not require a central server or computing resource; are aware of the contents of the messages transported and can participate in the processing and modification of the message while they travel through the network.

In essence, the Examiner errs in the application of the law – claim terms are attributed their ordinary and plain meaning, unless specifically defined. Thus, the Examiner's repeated argument that Appellants did not specifically define the term "active network" is not relevant, and Appellants *agree* that no specific definition is included in the specification. What is relevant to the patentability of these claims, then, is the ordinary and plain meaning of "active network" – and the Examiner has not countered Appellants' evidence of the ordinary and plain meaning. *Appellants agree with the Examiner* that it would be "improper for the Examiner to give words of the claims special meaning when no such special meaning has been defined by the written description" (p. 9, Examiner's Answer).

Since the Examiner does not allege that either Matsuda or Bertin, alone or in combination, teach a network meeting the description of the active network using the plain meaning of the term, the rejection must fall. In addition, Appellant is clearly not "reading limitations into the claim" – Appellant is arguing that the Examiner has failed to prove that any reference teaches or suggests the claim limitations.

Furthermore, *actual evidence* can rebut a prima facie case and *actual evidence*, not mere attorney argument, has been provided to the Examiner, and the Board. Rather than provide *evidence* to counter, the Examiner simply argues that the affidavit is not part of the claims. Appellant *agrees* that the affidavit is not part of the claims, but the affidavit *provides*

RECEIVED
CENTRAL FAX CENTER
NOV 02 2006

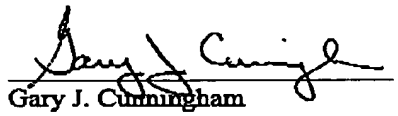
actual and uncontroverted evidence of the plain meaning of "active network". Thus, the record provides *clear evidence* to support the ordinary and plain meaning of "active network", while the Examiner has *no evidence* whatsoever to support any other definition of the term.

In light of the ordinary and plain meaning of the term "active network," it is apparent that neither the "multiplex bus 18" of Matsuda nor any structures taught by Bertin read on the claim term and therefore the Examiner's rejection must fall. Additionally, Appellant presented other arguments in their direct brief, but for the sake of brevity, Appellant will not restate each argument here.

Withdrawal of all rejections and prompt passage to issuance is requested.

Respectfully submitted,

Remboski, et al.

by: 

Gary J. Cunningham
Attorney for Applicant
Registration No. 33,488
Phone: (847) 862-0270
Fax: (847) 862-8308